

REMARKS/ARGUMENTS

The Examiner is requiring election of a single Group and a single species from the following combinations:

- Group I: Claims 1 and 3, to the extent that they are drawn to an agent containing adiponectin.
- Group II: Claims 2 and 4, to the extent that they are drawn to an agent containing adiponectin and leptin.
- Group III: Claims 2 and 4, to the extent that they are drawn to an agent containing adiponectin and a leptin gene.
- Group IV: Claims 1 and 3, to the extent that they are drawn to an agent containing an adiponectin gene.
- Group V: Claims 2 and 4, to the extent that they are drawn to an agent containing an adiponectin gene and leptin.
- Group VI: Claims 2 and 4, to the extent that they are drawn to an agent containing an adiponectin gene and a leptin gene.

Applicants have provisionally elected Group I, Claims 1 and 3, to the extent that they are drawn to an agent containing adiponectin.

Restriction is only proper if the claims of the restricted groups are independent or patentably distinct and there would be a serious burden placed on the Examiner if restriction is not required (MPEP §803). The burden is on the examiner to provide reason and/or example to support any conclusion in regard to patentable distinction. Moreover, when making a lack of unity of invention in a national stage application, the Examiner has the burden of explaining why there is no single inventive concept, specifically describing specific technical features in each group (MPEP §1893.03(d)).

Applicants respectfully submit that the Examiner's conclusion that there is no single general inventive concept in the present claims is incorrect. For example each of the original claims, 1-4, is drawn to an agent for improvement and therapy not compositions as indicated in the Official Action.

Therefore, Applicants submit that the Examiner has not carried the burden of support necessary to maintain the Restriction Requirement.

Moreover, Applicants submit that a search of all the claims would not impose a serious burden on the Examiner. MPEP §803 states as follows:

“If a search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.”

For the reasons set forth above, Applicants submit that the Requirement for Restriction should be withdrawn.

Applicants submit that the above identified application is now in condition for examination on the merits, and early notice of such action is earnestly solicited.

Respectfully submitted,

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